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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,020	09/02/2003	Glenn Ballman	001-215	2019
29569	7590	08/20/2007		
FURR LAW FIRM 2622 DEBOLT ROAD UTICA, OH 43080			EXAMINER KHATTAR, RAJESH	
			ART UNIT 3693	PAPER NUMBER
			MAIL DATE 08/20/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/605,020	BALLMAN, GLENN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Rajesh Khattar	3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Acknowledgements***

This office action is in response to Applicant's communication filed on Sept. 2, 2003. Claims 1-23 are pending in the application.

### ***Claim Objections***

Claim 20 is objected to because of the following informalities: The term "creates a static dynamic price instability alert" is confusing. Applicant may have intended to mean "creates a static price instability alert". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites a system that has price instability alerts over a network is confusing. Does this system possess price instability alerts over the network? Applicant may have intended to mean "system has the capability of transmitting price instability alerts over the network".

Claims 6 and 12, the term "system is processed"? What is the scope of "system is processed in context of the invention?"

Claim 20, the term "system...that senses the direction of the security" is confusing. How does a system senses a security movement? Examiner recommends using the word detects instead of senses.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Buckwalter et al. US Patent Application No. 2004/0254877. Buckwalter discloses a securities system that has price instability alerts over a network (Abstract; [0002], [0005], [0007], [0008], [0032]-[0033]). Examiner is interpreting price instability to be associated with different order pricing and execution characteristics associated with trades at different exchanges. Examiner is interpreting these alerts to be static in nature as these alerts (or message) will not get refreshed due to changes in the marketplace.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buckwalter in view of Abelow US Patent No. 5,999,908. Buckwalter discloses the invention as described above. Buckwalter fails to disclose that the alerts are dynamic and static. However, Abelow discloses this limitation (col. 53, lines 62-col. 54, lines 54). Therefore, it would have been obvious for a person having ordinary skills in the art at the time the invention was made to modify the invention of Buckwalter to include the disclosure of Abelow. One would have been motivated to do so in order to automatically inform traders when pre-specified triggers are satisfied as illustrated by Abelow.

Claims 5-10, 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buckwalter in view of Official Notice. Buckwalter discloses the invention as described above. Buckwalter fails to disclose that the system is a data processing system, system is processed in a client server system, connect to through the Internet, to wireless devices, trading of securities are done directly between rights holders, etc. Examiner notes that these features are all old and well known in the art. Examiner, therefore, takes Official Notice for claims 5-10, 17 and 19. Therefore, it would have been obvious for a person having ordinary skills in the art at the time the invention was made to modify the invention of Buckwalter to include features that are old and well known as per Official Notice. One would have been motivated to do so in order to communicate with traders.

Claims 11-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buckwalter in view of Abelow and further in view of Official Notice. Buckwalter and

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Abelow disclose their invention as described above. Both fail to disclose that the system is a data processing system, system is processed in a client server system, connect to through the Internet, to wireless devices, etc. Examiner notes that these features are all old and well known in the art. Examiner, therefore, takes Official Notice for claims 11-16 and 18. Therefore, it would have been obvious for a person having ordinary skills in the art at the time the invention was made to modify the invention of Buckwalter and Abelow to include features that are old and well known as per Official Notice. One would have been motivated to do so in order to provide updated information to traders.

Claim 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buckwalter in view of Eicher, JR. et al. US Patent Application No. 2002/0099578. Buckwalter discloses the invention as described above. Buckwalter also discloses that the system senses the direction of the security and *moves the price instability alert larger or smaller accordingly* (Abstract, [0002], [0006], [0007], [0054], [0055]), moves an existing beneficial rights holder order book into a market auction after a price instability alert ([0056]), creates a random time element auction to last for a given period of time ([0056]) and displays the beneficial rights holder in the order book during the auction bid and ask book creation (Abstract, [0007]). Buckwalter does disclose adding or changing entries in the limit order database **600** and/or the alert database **700**. However, Buckwalter fails to disclose *moving the price instability alert larger or smaller accordingly*. Eicher does disclose this limitation (claim 6). Therefore, it would have been obvious for a person having ordinary skills in the art at the time the invention was

made to modify the disclosure of Buckwalter to include the disclosure of Eicher. One would have been motivated to do so in order to adjust alert threshold based on historical data collected during a buyer-supplier engagement as evidenced by Eicher.

### ***Conclusion***

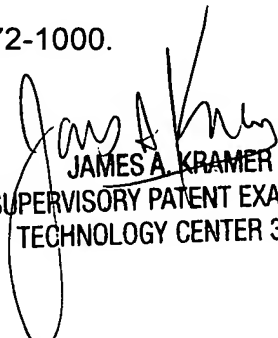
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are US Patent Application No. 2004/0034587.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rajesh Khattar whose telephone number is 571-272-7981. The examiner can normally be reached on Flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RK  
August 10, 2007

  
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8-13-07